

Our Docket No.: ALLOP-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jerchen Kuo

Application No.: 09/715,275

Filed: November 17, 2000

For: Point-to-Multipoint Passive Optical
Network That Utilizes Variable-Length
Packets

Examiner: Thai Hoang

Art Group: 2667

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SEP 14 2005

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.181(a)**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant hereby petitions to Withdraw the Holding of Abandonment, improvidently issued on November 16, 2004, due to an incorrect belief that Applicant had not responded timely to a Final Office Action, to which Applicant actually had filed (a) an Amendment After Final; and (b) a Notice of Appeal.

On April 11, 2005, the undersigned Attorney of Record discovered that we had previously received a Notice of Abandonment concerning patent application 09/715,275. We immediately contacted the Primary Examiner, Mr. Thai Hoang, and his Supervisory Examiner, Mr. Chi Pham, to inform them that this holding of abandonment was issued in error. On April 14, Mr. Chi Pham informed us that we could file this petition to request the withdrawal of the Holding of Abandonment, which we earnestly solicit at this time.

The Holding of Abandonment is in error, as is evidenced by the facts set forth below:

- a) On November 17, 2000 a new and first U.S. Patent Application was filed for Point-to-Point Passive Optical Network That Utilizes Variable-Length Packets subsequently assigned application number 09/715,275.

- b) There was much activity in this case, with a couple rounds of Office Actions and Responses thereto, with several Amendments.
- c) The undersigned Attorney of Record spoke with the Examiner on several separate occasions, and a formal Interview Report was placed in the file following a Telephone Interview on May 19, 2003.
- d) On August 12, 2003, a Final Rejection was mailed out concerning the application.
- e) On February 12, 2004, an Associate of the undersigned Attorney of Record, at the undersigned's prior law firm, sent by U.S. Express Mail an Amendment After Final in response to the Final Rejection, in which we cancelled all rejected claims thereby leaving only allowed claims in the application. At the same time a Notice of Appeal was filed as to the remaining claims that had been rejected in the application.
- f) Attached are true and correct copies of the following documents:
 - a. The Amendment after Final and the Notice of Appeal, showing the Certificates of Mailing on each document;
 - b. A copy of a postcard receipt stamped as received by the USPTO as of February 12, 2004;
 - c. A copy of the law firm's Deposit Account showing that the proper amount of money was charged to the Deposit Account at the time of the submission of the Amendment After Final (\$475 for the three month extension) and the Notice of Appeal (\$165) to cover the fees noted on the documents for the Amendment and the Notice of Appeal.
- g) On November 16, 2004 a Notice of Abandonment was sent to my prior law firm.
- h) Eventually, the Notice of Abandonment was mailed to my current law firm, and must have been filed without being properly noticed, or acknowledged by the attorneys at our firm.
- i) On April 11, 2005, when giving the client a status update on its various matters, we became aware of the Notice of Abandonment and that it had been received at my new law firm without being acted upon.

- j) For several days we tried to reach the Primary Examiner, Mr. Thai Hoang, and his Supervisory Examiner, Mr. Chi Pham, to discuss this matter, but we ended up leaving messages for one another..
- k) On April 14, 2005, we spoke with Primary Examiner Hoang who suggested that we speak with his Supervisory Examiner, Mr. Chi Pham, which we did. When we explained to Supervisory Examiner Pham that we had in fact timely mailed our Response to the Final Rejection, including a Notice of Appeal, Mr. Pham suggested that we file this Petition.
- l) On April 20, 2005, we hereby filed the instant Petition to Withdraw the Holding of Abandonment, and to pass to Issuance the Allowed Claims, Nos. 73 - 119 forthwith.

I hereby authorize the Commissioner, or his designee, to charge my credit card for any required fee, although we respectfully request that there be no fee charged for correcting this error. A signed Credit Card Fee form is enclosed in case it must be used.

Applicants respectfully request a Grant of the Petition to Withdraw the Holding of Abandonment under §1.181(a), and respectfully request that a U.S. Letters Patent be passed to Issuance on Allowed Claims 73 - 119 forthwith. If any additional information is required, or if there are any questions, the undersigned may be reached by telephone at (310) 892-1613 or by e-mail: Marc@HankinPatentLaw.com.

Respectfully Submitted,

Hankin Patent Law, A Professional Corporation

Dated: April 20, 2005

Marc E. Hankin

MARC E. HANKIN
Reg. No. 38,908

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as #E0091163845US Express Mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231 on: April 20, 2005.

11414 Thurston Circle
Los Angeles, California 90049
(310) 892-1613

Marc E. Hankin
Marc E. Hankin

4/20/2005
Date

Deposit Account Statement

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United States
Patent and
Trademark Office



Deposit Account Statement

Requested Statement Month: February 2004
 Deposit Account Number: 501990
 Name: GORDON & REES, LLP
 Attention: RICHARD SYBERT
 Address: 101 WEST BROADWAY
 City: SAN DIEGO
 State: CA
 Zip: 92101
 Country: UNITED STATES OF AMERICA

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
02/02	27	PAYMENT		9204	-\$3,494.00	\$5,432.00
02/11	781	78365888	SOSI 1013205	7001	\$335.00	\$5,097.00
02/11	782	78365891	SOSI 1013205	7001	\$335.00	\$4,762.00
02/11	786	78365894	SOSI 1013205	7001	\$335.00	\$4,427.00
02/11	1227	78327731	SMPS 1014806	7002	\$300.00	\$4,127.00
02/17	171	09715275	ALLOP-002	2253	\$475.00	\$3,652.00
02/17	172	09715275	ALLOP-002	2401	\$165.00	\$3,487.00
02/18	4	2756054		6211	\$100.00	\$3,387.00
02/20	16	E-REPLENISHMENT		9203	-\$1,035.00	\$4,422.00
		START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE	
		\$1,938.00	\$2,045.00	\$4,529.00	\$4,422.00	

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THE STAMP ON THE PATENT AND TRADEMARK OFFICE AFFIXED HERETO WILL BE EVIDENCE OF RECEIPT OF THE FOLLOWING (MAILED FEBRUARY 12, 2004 VIA EXPRESS MAIL LABEL NO. EX 01289612 US):

CLIENT NO: APT1013638 FILED
ENCLOSURE: TRANSMITTAL FORM (1 PG); FEE TRANSMITTAL IN DUPLICATE (2 PGS); PETITION FOR EXTENSION OF TIME IN DUPLICATE (2 PGS); AMENDMENT AFTER FINAL REJECTION IN RESPONSE TO OFFICE ACTION DATED AUGUST 12, 2003 (24 PGS); NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES (2 PGS); AND RETURN POSTCARD
INVENTORS: JERCIEN KO, ET AL.
SERIAL NO.: 09713,273 - FILING DATE: 11/17/2000
FOR: POINT-TO-POINT PASSIVE OPTICAL NETWORK THAT UTILIZES VARIABLE-LENGTH PACKETS
PLEASE STAMP HERE (THANK YOU):

